

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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DEVONNE LANGSTON,

Plaintiff,

-against-

ORDER

21-CV-0723 (JS)

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

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APPEARANCES

For Plaintiff: Devonne Langston, pro se
P.O. Box 165
Lawrence, New York 11559

For Defendant: No appearance.

SEYBERT, District Judge:

On February 9, 2021, Devonne Langston ("Plaintiff") filed a Complaint against the Commissioner of Social Security seeking review of the decision of the Administrative Law Judge pursuant to Section 205(g) of the Social Security Act, as amended, 42 U.S.C. § 405(g), together with an application to proceed in forma pauperis ("IFP"). (Compl., ECF No. 1; IFP Mot., ECF No. 2.) For the reasons that follow, the application to proceed in forma pauperis is DENIED WITHOUT PREJUDICE and with leave to renew upon completion of the AO 239 in forma pauperis application form. Alternatively, Plaintiff may remit the \$400.00 filing fee.

On the in forma pauperis application, Plaintiff reports that he is unemployed and, in the past twelve months, has received income in the sum of \$183.00 from "HRA". (See IFP Mot. ¶¶ 2-3.)

Plaintiff reports having \$50.00 in cash or in an account and provides no other information about his financial position, including regular living expenses. Indeed, Plaintiff wrote "no" in response to every other question on the form, making it impossible to assess his qualification for a fee waiver. (See generally IFP Mot.) In the absence of any information concerning Plaintiff's regular monthly expenses, including housing, transportation, food, and utilities, Plaintiff's application raises more questions than it answers. For example, Plaintiff includes a P.O. Box and a telephone number in his Complaint, yet provides no expenses associated with these items. Further, although the Appeals Council letter, dated December 7, 2020 and annexed to the Complaint, reflects Plaintiff's residential address is an apartment in Brooklyn, New York, he does not include any information concerning rent. (See Compl. at ECF p. 6.) Thus, the Court finds Plaintiff's responses concerning his financial position to be incomplete and unclear.

Because Plaintiff's responses do not permit the Court to conclude that he is qualified to proceed in forma pauperis, Plaintiff's application is DENIED WITHOUT PREJUDICE to a renewal upon completion of the AO 239 in forma pauperis application form annexed to this Order. Plaintiff is directed to either remit the \$400.00 filing fee or complete and return the enclosed in forma

pauperis application (AO 239) application within fourteen (14) days of receipt of this Order. Plaintiff shall set forth his current financial position on the long form in forma pauperis application (AO 239) as best he can under the circumstances. Plaintiff is cautioned that a failure to timely comply with this Order will lead to the dismissal of the Complaint without prejudice and judgment will enter.

The Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal from this Order would not be taken in good faith and therefore in forma pauperis status is denied for the purpose of any appeal. See Coppedge v. United States, 369 U.S. 438, 444-45 (1962).

The Clerk of Court is directed to mail a copy of this order to the pro se Plaintiff and include the AO 239 in forma pauperis application form.

SO ORDERED.

/s/ JOANNA SEYBERT
Joanna Seybert, U.S.D.J.

Dated: March 2, 2021
Central Islip, New York